

US EPA ARCHIVE DOCUMENT



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February 6, 2007

Mr. Donald S. Welsh
Regional Administrator
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Dear Mr. Welsh:

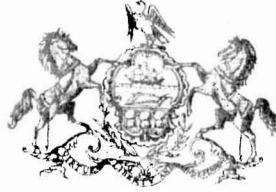
Pennsylvania is applying for final authorization under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901, *et seq.* The attached Pennsylvania Third Supplemental Legal Statement For Final Authorization For Changes To The Federal RCRA Program On 9/30/99, 11/19/99, 7/10/00, 5/14/01 And From June 29, 2001 Through October 12, 2005 ("Legal Statement") is submitted in support of the Commonwealth's application for updated program authorization under RCRA. This Legal Statement is provided in accordance with 40 CFR 271.7, which requires the Attorney General or independent legal counsel to certify that the state has adequate legal authority to carry out the program described in the application.

EPA's regulations require the "independent legal counsel" signing a legal statement certifying that the state has adequate legal authority to carry out the program described in an application for program authorization to "have full authority to independently represent the State agency in court on all matters pertaining to the State program." 40 CFR 271.7(a) (emphasis added). Since the passage of the Commonwealth Attorneys Act, Act of October 15, 1980 (P.L. 950, No. 164), 71 P.S. § 732.101, *et seq.*, authority to represent Pennsylvania on matters pertaining to the hazardous waste management program is divided between the Office of General Counsel and the Office of Attorney General. In order to assure full compliance with EPA's regulations, I am authorized to sign the Legal Statement for the Office of General Counsel. I am enclosing a separate letter signed by a member of the Office of Attorney General concurring in the Legal Statement.

Sincerely,

Andrew C. Clark
Deputy General Counsel

ACC:jmh



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

April 17, 2007

TOM CORBETT
ATTORNEY GENERAL

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(717) 783-1111

Mr. Donald S. Welsh
Regional Administrator
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Dear Mr. Welsh:

You have been provided with a Supplemental Legal Statement prepared by the Office of General Counsel in support of Pennsylvania's application for program authorization under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901, *et. seq.* (Legal Statement). In the cover letter accompanying these documents the Office of General Counsel indicated that the Pennsylvania Office of Attorney General would submit a letter concurring in the Legal Statement.

Under Section 204(c) of the Commonwealth Attorneys Act, Act of October 15, 1980 (P.L. 950, No. 164), 71 P.S. §732.101, *et. seq.*, the Office of Attorney General is responsible, in the first instance, for representing Commonwealth agencies in civil litigation. Therefore, this letter of concurrence is submitted to satisfy the requirement of 40 CFR 271.7 respecting legal counsel's "full authority to independently represent the State Agency in court on all matters pertaining to the State program."

The Office of Attorney General has reviewed the Legal Statement dated February 6, 2007, and is in agreement with its contents. The Office of Attorney General concurs in the conclusions of the Legal Statement that the Commonwealth has adequate authority to carry out the program set forth in the revised Program Description submitted by the Department of Environmental Protection as part of the application for program authorization.

Sincerely yours,

A handwritten signature in cursive script, reading "Amy M. Elliott".

Amy M. Elliott
Senior Deputy Attorney General
Legal Review Section
Civil Law Division

AME:mlm

PENNSYLVANIA THIRD SUPPLEMENTAL LEGAL STATEMENT FOR FINAL
AUTHORIZATION FOR CHANGES TO THE FEDERAL RCRA PROGRAM ON 9/30/99,
11/19/99, 7/10/00, 5/14/01 AND FROM JUNE 29, 2001 THROUGH OCTOBER 12, 2005

I hereby certify, pursuant to my authority as Deputy General Counsel and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC § 6901, *et seq.*), and 40 CFR 271 that in my opinion the laws of the Commonwealth of Pennsylvania (Commonwealth or Pennsylvania) provide adequate authority to carry out the revised program set forth in the revised Program Description for the Commonwealth's third program revision application submitted by the Pennsylvania Department of Environmental Protection (Department).

The specific authorities provided are contained in statutes or regulations lawfully adopted and in effect at the time this Third Supplemental Legal Statement (Third Supplemental Legal Statement) is signed. These authorities and this certification supplement the previously certified authorities described in the following documents:

- (1) the Pennsylvania Legal Statement for Final Authorization Including Changes to the Federal RCRA Program Through June 1998 (Legal Statement), submitted to EPA on August 10, 2000;
- (2) the Pennsylvania Supplemental Legal Statement for Changes to the Federal RCRA Program from July 1998 Through July 6, 1999 (First Supplemental Legal Statement), submitted to EPA on August 10, 2000; and
- (3) the Pennsylvania Second Supplemental Legal Statement for Final Authorization for Changes to the Federal RCRA Program from July 7, 1999 Through June 28, 2001 (Second Supplemental Legal Statement), submitted to EPA on July 17, 2003.

Pennsylvania's hazardous waste regulations, which took effect on May 1, 1999, generally incorporated by reference the Federal hazardous waste regulations in the *Code of Federal Regulations* (CFR) that were in effect as of May 1, 1999, unless otherwise expressly provided. As stated in 25 Pa. Code § 260a.3(e), the incorporation by reference also includes subsequent modifications and additions to the incorporated CFR. The purpose of incorporation by reference is to ensure that the Commonwealth's hazardous waste regulations are consistent with, and no less stringent than, the Federal regulations.

As documented in the Commonwealth's Legal Statement, the Commonwealth has the authority to lawfully adopt regulations that reference EPA (or other) regulations and adopt certain EPA criteria by reference to 40 CFR. Pennsylvania courts have upheld the validity of Pennsylvania regulations that reference other existing regulations, including Federal regulations, (East Suburban Press v. Township of Penn Hills, 40 Pa. Cmwlth. 438, A.2d 1263 (1979); Commonwealth v. Tarabilda, 222 Pa. Super. 237, 294 A.2d 830 (1972); Fisher's Petition, 344 Pa. 96, 23 A.2d 878 (1942)). Section 1937(a) of the Statutory Construction Act of 1972, 1 Pa. C.S. § 1937(a), expressly authorizes this practice. Section 1937(a) applies to documents codified in the Pennsylvania Code, including Pennsylvania's hazardous waste regulations, by virtue of section 1502(a) of the Statutory Construction Act of 1972, 1 Pa. C.S. § 1502(a).

EPA's regulations require the "independent legal counsel" signing a legal statement certifying that the state has adequate legal authority to carry out the program described in an application for

February 6, 2007

program authorization to "have full authority to independently represent the State agency in court on all matters pertaining to the State program." 40 CFR 271.7(a) (emphasis added). Since the passage of the Commonwealth Attorneys Act, Act of October 15, 1980 (P.L. 950. No. 164), 71 P.S. § 732.101, *et seq.*, authority to represent Pennsylvania on matters pertaining to the hazardous waste management program is divided between the Office of General Counsel and the Office of Attorney General. In order to assure full compliance with EPA's regulations, I am authorized to sign the Third Supplemental Legal Statement for the Office of General Counsel. I am enclosing a separate letter signed by a member of the Office of Attorney General concurring in the Third Supplemental Legal Statement.

The Commonwealth seeks authorization at this time for its analogs to changes made to the Federal program on September 30, 1999, November 19, 1999, July 10, 2000, May 14, 2001 and from June 29, 2001 through October 12, 2005, and noted in Section A below. Pennsylvania also seeks authorization for certain Commonwealth-initiated changes to its hazardous waste regulations. These changes mostly serve to clarify state requirements but also include new more stringent requirements as well as corrections to typographical errors and changes to citations to conform to the addition of new requirements. All of the Commonwealth-initiated changes for which Pennsylvania is seeking approval are listed in Section B of this statement.

This Third Supplemental Legal Statement serves as the statement and certification of the Commonwealth's provisions addressing these changes.

I hereby certify that statutes cited in the previous authorization application submitted to EPA on August 10, 2000, have not been amended, modified, or revised since the submission of Pennsylvania's Second Supplemental Legal Statement on July 17, 2003.

I hereby certify that the Commonwealth has not enacted any legislation or implemented any regulatory initiatives that could potentially limit or interfere with the authority to implement, administer, or enforce the authorized hazardous waste program.

There have not been any judicial decisions that limit or interfere with the Commonwealth's authority to implement, administer, or enforce the authorized hazardous waste program.

Seal of Office



Signature

Andrew C. Clark

Name (Type or Print)

Deputy General Counsel

Title

2.6.07

Date

A. COMMONWEALTH ANALOGS TO FEDERAL REGULATIONS

Pennsylvania's regulations, which took effect on May 1, 1999, incorporated by reference the Federal hazardous waste regulations in the *Code of Federal Regulations* ("CFR") that were in effect as of May 1, 1999. As stated in 25 Pa. Code § 260a.3(e), the incorporation by reference also includes subsequent modifications and additions to the incorporated CFR. Pennsylvania is now seeking approval for federal regulatory changes published in the Federal Register on September 30, 1999, November 19, 1999, July 10, 2000, May 14, 2001 and from June 29, 2001 through October 12, 2005.

Federal register citation	Date Promulgated	Description of Regulation	CFR Sections Affected by Federal Amend.	Commonwealth Citation(s)
64 <u>FR</u> 52828 64 <u>FR</u> 63209	9/30/99 11/19/99	Hazardous Air Pollutant Standards for Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements; Technical Correction to Fast-track Rule	40 CFR 260 40 CFR 261 40 CFR 264 40 CFR 265 40 CFR 266 40 CFR 270	260a.3(e) 260a.1(a) 261a.1 264a.1(a) 265a.1(a) 266a.20 266a.100 270a.1(a) 270a.41(6)
65 <u>FR</u> 42292 66 <u>FR</u> 24270 66 <u>FR</u> 35087	7/10/00 5/14/01 7/3/01	Hazardous Air Pollutant Standards; Technical Corrections	40 CFR 261 40 CFR 264 40 CFR 270	260a.3(e) 261a.1 264a.1(a) 270a.1(a)
66 <u>FR</u> 50332 66 <u>FR</u> 60153	10/3/01 12/3/01	Mixture and Derived-From Rules Revision II	40 CFR 261	260a.3(e) 261a.1
66 <u>FR</u> 58258 67 <u>FR</u> 17119	11/20/01 4/9/02	Inorganic Chemical Manufacturing Wastes Identification and Listing	40 CFR 261 40 CFR 268	260a.3(e) 261a.1 268a.1(a)
67 <u>FR</u> 2962	1/22/02	CAMU Amendments	40 CFR 260 40 CFR 264	260a.3(e) 260a.1(a) 264a.1(a)
67 <u>FR</u> 6792	2/13/02	Hazardous Air Pollutant Standards for Combustors: Interim Standards	40 CFR 264 40 CFR 265 40 CFR 266 40 CFR 270	260a.3(e) 264a.1(a) 265a.1(a) 266a.20 270a.1(a)
67 <u>FR</u> 6968	2/14/02	Hazardous Air Pollutant Standards for Combustors: Corrections	40 CFR 266 40 CFR 270	260a.3(e) 266a.20 266a.100 270a.1(a)

Federal register citation	Date Promulgated	Description of Regulation	CFR Sections Affected by Federal Amend.	Commonwealth Citation(s)
67 <u>FR</u> 11251	3/13/02	Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste	40 CFR 261	260a.3(e) 261a.1
67 <u>FR</u> 48393	7/24/02	Zinc Fertilizer Rule	40 CFR 261 40 CFR 266 40 CFR 268	260a.3(e) 261a.1 266a.20 268a.1(a)
67 <u>FR</u> 62618	10/7/02	Treatment Variance for Radioactively Contaminated Batteries	40 CFR 268	260a.3(e) 268a.1(a)
67 <u>FR</u> 77687	12/19/02	Hazardous Air Pollutant Standards for Combustors – Corrections 2	40 CFR 270	260a.3(e) 270a.1(a)
69 <u>FR</u> 21737 69 <u>FR</u> 62217	4/22/04 10/25/04	National Environmental Performance Track Program	40 CFR 262	260a.3(e) 262a.10
69 <u>FR</u> 22602	4/26/04	NESHAPS: Surface Coating of Automobiles and Light-Duty Trucks	40 CFR 264 40 CFR 265	260a.3(e) 264a.1(a) 265a.1(a)
70 <u>FR</u> 9138 70 <u>FR</u> 35032	2/24/05 6/16/05	Hazardous Waste - Nonwastewaters From Production of Dyes, Pigments, and Food, Drug, Cosmetic Colorants; Mass Loadings-Based Listings	40 CFR 261 40 CFR 268	260a.3(e) 261a.1 268a.1(a)
70 <u>FR</u> 34538 70 <u>FR</u> 44150	6/14/05 8/1/05	Waste Management System; Testing and Monitoring Activities; Methods Innovation Rule and SW-846 Final Update IIIB	40 CFR 260 40 CFR 261 40 CFR 264 40 CFR 265 40 CFR 266 40 CFR 268 40 CFR 270	260a.3(e) 260a.1(a) 261a.1 264a.1(a) 265a.1(a) 266a.20 268a.1(a) 270a.1(a)

Federal register citation	Date Promulgated	Description of Regulation	CFR Sections Affected by Federal Amend.	Commonwealth Citation(s)
70 <u>FR</u> 36850	6/27/05	Project XL Site-Specific Rulemaking for the Ortho-McNeil Pharmaceutical, Inc. Facility in Spring House, PA Involving On-Site Treatment of Mixed Waste	40 CFR 261	260a.3(e) 261a.1
70 <u>FR</u> 57769	10/4/05	Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures	40 CFR 261	260a.3(e) 261a.1
70 <u>FR</u> 59401	10/12/05	National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors	40 CFR 260 40 CFR 264 40 CFR 265 40 CFR 266 40 CFR 270	260a.3(e) 260a.1(a) 264a.1(a) 265a.1(a) 266a.20 270a.1(a)

As annotated above, the Commonwealth's analogs to the RCRA regulatory revisions for which it is seeking authorization are equivalent to the Federal provisions. The Commonwealth has incorporated the Federal provisions by reference with minor exceptions. Therefore, it is not necessary to submit regulatory checklists in support of this application.

Pennsylvania is currently amending its regulations to resemble more closely the Federal standards for used oil, the manifest, mercury-containing equipment; and the standardized permit; therefore, the Commonwealth is not seeking authorization for the following final rules, as well the Project XL final rule for New York Public Utilities:

- (1) Recycled Used Oil Management Standards, as published on June 30, 2003 (68 FR 44659) [Revision Checklist 203].
- (2) Modification of the Hazardous Waste Manifest System, as published on March 4, 2005 (70 FR 10776), as amended on June 16, 2005 (70 FR 35034) [Revision Checklist 207].
- (3) Project XL Rulemaking Extension for New York State Public Utilities, as published on May 24, 2005 (70 FR 29909).
- (4) Mercury-Containing Equipment, as published on August 5, 2005 (70 FR 45508).
- (5) Standardized Permit for RCRA Hazardous waste Management Facilities, as published on September 8, 2005 (70 FR 53419).

B. COMMONWEALTH-INITIATED CHANGES TO THE PREVIOUSLY AUTHORIZED PROGRAM

Pennsylvania is also seeking approval for Commonwealth-initiated amendments to its hazardous waste regulations. Provisions that have changed are listed below and grouped according to the type of change made. Significant changes are further discussed through an interpretive comment directly following the listing of the changed provision.

1. **Redesignations and Corrections of Typographical Errors** - The Commonwealth provisions listed below were amended to correct typographical errors or merely redesignated. All of these changes were made without affecting the stringency of the Commonwealth's currently authorized program.

Pennsylvania Citation	Previously Authorized Pennsylvania Citation	Related Federal Analog	Pennsylvania Analog is:
261a.3(a)	261a.3	261.3(c)(2)(ii)(C)	Equivalent
261a.5(b)	261a.5(b)	Related to 261.5(f)(3)(iv) and (v) 261.5(g)(3)(iv) and (v)	Equivalent
262a.12(b) intro. - (b)(1)(iv)	262a.12(b) intro. - 262a.12(b)(4)	Related to 262.12	More Stringent
262a.21(a)	262a.21	Related to 262.21	Equivalent
263a.20(a)	263a.20(1)	Related to 263.20(a)	Equivalent
263a.20(b) intro. and (b)(1)	263a.20(2)	No Federal analog in 263.20	Equivalent
265a.13(1) intro	265a.13(1) intro	No Federal analog in 265.13	Equivalent
270a.42(b)	270a.42(b)	Related to 270.42	Equivalent
270a.60(a) intro.	270a.60(a), 1st sentence	Related to 270.60	Equivalent
270a.60(a)(2)	270a.60(a), 3rd sentence	Related to 270.60	Equivalent
270a.60(b)(1)(iv)	270a.60(b)(1)(iv)	No Federal analogs in Part 270	More Stringent
270a.60(b)(5)	270a.60(b)(6)	Related to 270.60	Equivalent
270a.62	270a.62	Related to 270.62	Equivalent
270a.66	270a.66	Related to 270.66	Equivalent
270a.81(b)(5)	270a.81(b)(5)	124.12(a)(4)	Equivalent

2. **Clarification of Ambiguous Requirements** - The Commonwealth has amended the following provisions to address ambiguities identified through the implementation of the regulations. Some of these amendments remove more stringent requirements or leave previously more stringent provisions equivalent to the federal program.

Pennsylvania Citation	Previously Authorized Pennsylvania Citation	Related Federal Analog	Pennsylvania Analog is:
260a.10, definition of "Treatment"	IBR at 260a.1	260.10 "Treatment"	Equivalent
<p>Interpretive Comment: Previously Pennsylvania incorporated the Federal definition by reference. As part of the Commonwealth-initiated changes, Pennsylvania has adopted a modified definition of "Treatment" that excludes the phrase "or so as to recover energy or material resources from the waste". Pennsylvania's new definition was taken from its statutes to assure consistency between its statutes and its regulations. The Commonwealth's definition is almost identical to the definition of "treatment" found in RCRA at § 1004(34). While it differs from the Federal regulatory definition, the definition is equivalent to the Federal statutory definition. The phrase "The term includes any activity or processing designed to change the physical form or chemical composition..." implies energy and material resources recovery in the same way that Federal regulatory definition has been used to interpret the Federal statutory definition. Also, like the Federal regulatory definition, Pennsylvania interprets "non-hazardous" to include "less hazardous".</p>			
262a.50	262a.55 262a.56 262a.57	Related to 262, Subpart E	Equivalent
264a.97(1)	264a.97(1)	Related to 264.98(d)&(e)	More Stringent
<p>Interpretive Comment: This more stringent provision was amended in order to add frequencies for the evaluations and determinations for groundwater monitoring. For the evaluations, the Commonwealth is more stringent because Pennsylvania requires them quarterly.</p>			
264a.173(2) 265a.173(2)	264a.173(2) 265a.173(2)	No Federal analog in 264.173 or 265.173	More Stringent
<p>Interpretive Comment: The stringency of these provisions was reduced by removing the last sentence - which specified a 40-foot setback from the building for all outdoor container storage. These provisions are still more stringent because they address management requirements for permitted and interim status facilities not specifically found in the Federal container regulations.</p>			
265a.175 (Reserved)	265a.175	Related to 265.175	Equivalent
<p>Interpretive Comment: The removal of this more stringent provision regarding containment and collection systems makes the Commonwealth equivalent to the federal program.</p>			
270a.42(c)	270a.42(c)	Related to 270.42	More Stringent
<p>Interpretive Comment: This provision has been modified to no longer subject Class 2 permit modifications to more stringent public meeting and notice requirements; however, the provision is still more stringent with regard to Class 3 modifications.</p>			

Pennsylvania Citation	Previously Authorized Pennsylvania Citation	Related Federal Analog	Pennsylvania Analog is:
270a.60(a)(1)	270a.60(a), 2nd sentence	Related to 270.60	More Stringent
Interpretive Comment: The provision was amended to require owners or operators of facilities claiming a permit by rule to provide prior notification to the Department on the Department=s form. The Federal program does not require such a notification; thus, Pennsylvania=s program is more stringent.			
270a.83(a)(4)	270a.83(a)(4)	Related to 124.31	Equivalent
Interpretive Comment: The provision has been modified to no longer subject Class 1 and Class 2 permit modifications to more stringent public meeting and notice requirements. The provision is now equivalent to the federal program.			
270a.51(a)	270a.51	270.51 not IBR	Equivalent
270a.60(b)(2)(ii) 270a.60(b)(3)(ii) 270a.60(b)(4)(ii) 270a.60(b)(5)(ii)	270a.60(b)(2)(ii) 270a.60(b)(3)(ii) 270a.60(b)(4)(ii) 270a.60(b)(6)(ii)	Related to 270.60	More Stringent
Interpretive Comment: These provisions were amended by excepting from the permit-by-rule requirements the Commonwealth=s more stringent and broader in scope siting requirements. The amendments do not affect the stringency of these pre-existing more stringent provisions.			

3. **Changes to Manifest Requirements** - The following new and amended provisions address the administration of the Commonwealth's hazardous waste manifest program. These changes are designed to clarify ambiguous requirements, streamline the manifest process, and ensure that the Department receives timely notification when necessary. For example the amendment of 262a.20(1) clarifies when a manifest needs to be submitted to the Department. Some of the new provisions are additional requirements not found in the federal regulations and are therefore more stringent.

Pennsylvania Citation	Previously Authorized Pennsylvania Citation	Related Federal Analog	Pennsylvania Analog is:
262a.20 intro.	262a.20 intro.	Related to 262.20	Equivalent
262a.20(1)	262a.20(1)	Related to 262.20(a)	Equivalent
262a.21(b)	New Provision	262.21(b) related	Equivalent
262a.23(a)(1)	262a.23(a)(1)	Related to 262 Appendix	Equivalent
262a.23(a)(2)	262a.23(a)(2)	No Federal analog in 262.23	More stringent

Pennsylvania Citation	Previously Authorized Pennsylvania Citation	Related Federal Analog	Pennsylvania Analog is:
Interpretive Comment: This more stringent provision has been amended to add instruction as to the information to be submitted and the manner in which it should be submitted to the Department as recorded on the manifest forms. The amendment adds stringency to the provision by requiring that the manifest be submitted within 10 days after the receipt of the signed copy from the designated facility.			
262a.23(a)(3)	New Provision	Related to 262.23 and 262 Appendix	Equivalent
262a.23(a)(4)	New Provision	Related to 262.23 and 262 Appendix	Equivalent
263a.12(3)	New Provision	No Federal analog in 263.12	More Stringent
Interpretive Comment: This new provision mandates several additional requirements for transporters delivering hazardous waste to another transporter at a transfer facility. Specifically this subsection includes several manifest requirements not included in the federal.			
263a.20(b)(2)	New Provision	No Federal analog in 263.20	Equivalent
263a.20(b)(3)	New Provision	No Federal analog in 263.20	Equivalent
263a.21(2)	263a.21(2)	Related to 263.20(a)	More Stringent
Interpretive Comment: This provision more stringent provision assigns the responsibility to the transporter for assuring that a correctly completed manifest accompanies the shipment of hazardous waste. The amendments to this provision only further clarify the standards for completing the manifest.			
263a.21(3)	New Provision	Related to 263.20(a)	Equivalent
264a.71(1)	264a.71(1)	Related to 264.71(a)	Equivalent
264a.71(3)	New Provision	Related to 264.71,	More stringent
265a.71(3)		264.72 and 265.72	
Interpretive Comment: These new provisions require facility owners or operators to record the actual quantities received in bulk shipments. These requirements are more stringent than the federal discrepancy requirements found at 264.72 and 265.72 because it requires additional recordkeeping on the part of permitted and interim status facilities.			
264a.71(4)	New Provision	Related to 264.71	Equivalent
265a.71(1)	265a.71(1)	Related to 265.71(a)	Equivalent
265a.71(4)	New Provision	Related to 265.71	Equivalent

4. **New Provisions Added for Clarification** - These new Commonwealth provisions were added to provide clarity on how the hazardous waste program operates or to provide guidance on proper compliance methods. In most cases, these provisions establish a firm position on areas where the federal program is ambiguous or silent. Some of these new provisions increase the stringency of the hazardous waste program.

Pennsylvania Citation	Previously Authorized Pennsylvania Citation	Related Federal Analog	Pennsylvania Analog is:
261a.3(b)	New Provision	Related to 261.3	More Stringent
Interpretive Comment: This new provision treats all material as hazardous even prior to a determination being made, unlike the federal program, which does not directly address this issue. Thus, this new provision is likely more stringent because it can be interpreted as imposing additional requirements on the regulated community.			
262a.11	New Provision	Related to 262.11	Equivalent
262a.12(b)(1)(v)	New Provision	Related to 262.12	More Stringent
Interpretive Comment: Pennsylvania has adopted a new provision that adds clarity and stringency to the Commonwealth's overall rules regarding identification numbers. This new provision requires subsequent notification to the Department in the event a generator's facility class makes a permanent change.			
262a.34	New Provision	Related to 262.34(a)(1)(i)	More Stringent
Interpretive Comment: This new more stringent provision imposes additional requirements on generators subject to federal 262.34(a)(1)(i) by also subjecting these generators to the additional container requirements found at 265a, Subchapter I.			
262a.43	New Provision	Related to 262.43	Equivalent
270a.51(b) - (d)	New Provisions	270.51 related	Equivalent

5. **Changes to Broader in Scope Requirements** - These are new and amended Commonwealth provisions that are broader in scope than the federal hazardous waste program and are therefore not part of the Commonwealth's authorized program.

Pennsylvania Citation	Related Federal Analog
263a.12(1)&(2)	No Federal analog in 263.12
263a.13	No Federal analog in 40 CFR Part 263
263a.24(b)	No Federal analog in 40 CFR Part 263
263a.26(c)	No Federal analog in 40 CFR Part 263
270a.3	No Federal analog in 270
262a.12(b)(2)	262.12(c) related